

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment to the most recent claims filed on September 29<sup>th</sup>, 2010, was given in a telephone interview with Dr. Rakesh Mehta (Applicant's Attorney) on September 30<sup>th</sup>, 2010. See the attached interview summary for further information.

The application has been amended as follows:

Claims 1-6 have been canceled.

Claims 7-12 have been inserted as detailed below:

7. A tamper-evident assembly for use with a fluid dispensing container for flowable material, the assembly comprising:

- (A) an annular flange, for attachment to a container;
- (B) a spout, projecting upwardly from the annular flange and having an upper end and a lower end, the spout defining a dispensing passage therethrough and having at least one external annular rib; and
- (C) a cap, having a top with an external depending skirt and a frangible tamper indicating band releasably attached to the skirt, the cap further including an internal skirt depending from the top and spaced inwardly from the external skirt and operable to be received within the fluid passage to provide a seal between the cap and the spout;

wherein the assembly has a first pre-cap position in which the cap is received on the upper end of the spout,

with the frangible tamper indicating band positioned above the external annular rib and abutting a top surface of the external annular rib, and

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the internal skirt being received within the passage and contacting an internal annular surface of the spout providing a seal between the internal skirt and the internal annular surface of the spout; and

wherein the assembly has a second full-cap position in which the cap is located on the lower end of the spout,

with the external annular rib being located between the external skirt and the tamper indicating band, and

the upper end of the spout being located adjacent the top of the cap, the internal skirt being received within the passage and providing a seal therebetween;

wherein the cap and spout have cooperating detent and locking elements to allow the assembly, when secured to a container,

to move from:

- (a) a first pre-cap position, where the cap is removably sealed to the spout and the tamper evident band is not broken when the cap is removed for filling,

to:

- (b) a second full-cap position when the cap is removably sealed to the spout providing that the tamper evident band is broken upon removal of the cap from its second full-cap position to dispense flowable material from the container;

wherein the assembly in the first pre-cap position or the second full-cap position provides an aseptic seal between the cap and the spout;

wherein the cap is received on the upper end of the spout for the pre-cap position or the full-cap position by a push-on process; and

wherein the cap is removed from the spout either from the pre-cap position or the full-cap position by a pull-off process.

8. A tamper-evident assembly, as recited in Claim 7 for use with a fluid dispensing container for flowable material,

wherein the assembly has a first pre-cap position,

in which the cap and the tamper indicating band are received on the upper end of the spout,

a seal is provided between the cap and the spout, and

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when the cap is removed from the spout, the frangible tamper indicating band remains attached to the cap; and

wherein the assembly has a second full-cap position,

in which the cap and the tamper indicating band are located adjacent the lower end of the spout,

wherein a seal is provided between the cap and the spout, and

when the cap is removed from the spout, the tamper indicating band detaches from the cap and remains on the spout, thereby providing evidence of tampering.

**9.** The tamper-evident assembly as recited in Claim 7, wherein said spout comprises an external screw thread at a top of said spout for attachment to a dispensing connector.

**10.** A tamper-evident closure and dispensing assembly for use with a container for flowable material, the closure comprising:

(A) a cap having a top with an external depending skirt and a frangible tamper indicating band releasably attached to the skirt, the cap further including an internal skirt depending from the top and spaced inwardly from the external skirt and operable to be received within the fluid passage to provide a seal between the cap and the spout; and

(B) a spout secured to the container, projecting upwardly from an annular flange and having an upper end and a lower end, the spout defining a dispensing passage therethrough and having at least one external annular rib;

(C) an annular flange, for attachment to a container;

wherein the cap has an annular recess for frictionally engaging a top portion of the spout;

wherein the assembly has a first pre-cap position in which the cap is received on the upper end of the spout,

with the frangible tamper indicating band positioned above the external annular rib and abutting a top surface of the external annular rib, and

the internal skirt being received within the passage and contacting an internal annular surface of the spout providing a seal between the internal skirt and the internal annular surface of the spout;

wherein the assembly has a second full-cap position in which the cap is located on the lower end of the spout,

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with the external annular rib being located between the external skirt and the tamper indicating band, and

the upper end of the spout being located adjacent the top of the cap, the internal skirt being received within the passage and providing a seal therebetween;

wherein the cap and spout have cooperating detent and locking elements to allow the assembly, when secured to a container,

to move from:

- (a) a first pre-cap position where the cap is removably sealed to the spout and the tamper evident band is not broken when the cap is removed for filling,

to:

- (b) a second full-cap position when the cap is removably sealed to the spout providing that the tamper evident band is broken upon removal of the cap from its second full-cap position to dispense flowable material from the container;

wherein the assembly in the first pre-cap position or the second full-cap position provides an aseptic seal between the cap and the spout;

wherein the cap is received on the upper end of the spout for the pre-cap position or the full-cap position by a push-on process; and

wherein the cap is removed from the spout either from the pre-cap position or the full-cap position by a pull-off process.

**11.** A tamper-evident closure and dispensing assembly as recited in Claim 10;

wherein the cap includes an internal skirt depending from a top portion of the cap and spaced inwardly from the cap sidewall;

wherein the frangible tamper-evident band depends from the lower edge of the cap sidewall; and

wherein the area between the sidewall and the internal skirt forms the annular recess in the cap and includes a lower and an upper detent that determine the first pre-cap position and second full-cap position, respectively for the top portion of the spout that is sealingly and frictionally engaged within the annular recess of the cap when the assembly is in use.

**12.** A tamper-evident closure and dispensing assembly, as recited in Claim 11;

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wherein the spout includes a locking ring that cooperatively engages an annular projection located on an inner edge of the tamper evident band in the first pre-cap position;

wherein in the second full-cap position the annular projection located on an inner edge of the tamper evident band is engaged beneath the locking ring on the spout; and

whereby in the first pre-cap position, the frangible tamper-evident band is not broken upon removal of the cap, but in the second full-cap position, the frangible tamper-evident band must be broken to remove the cap.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

2. Claims 7-12 are allowed.

The following is an examiner's statement of reasons for allowance: none of the prior art of record nor the prior art reviewed during the Examiner's search included the features and functionality of the tamper-evident assembly as claimed. Specifically, in conjunction with the other limitations of Claim 7, the prior art does not anticipate nor teach: wherein the assembly has a first pre-cap position in which the cap is received on the upper end of the spout, with the frangible tamper indicating band positioned above the external annular rib and abutting a top surface of the external annular rib, and the internal skirt being received within the passage and contacting an internal annular surface of the spout providing a seal between the internal skirt and the internal annular surface of the spout; and wherein the assembly has a second full-cap position in which the cap is located on the lower end of the spout, with the external annular rib being located between the external skirt and the tamper indicating band, and the upper end of the spout being located adjacent the top of the cap, the internal skirt being received within the passage and providing a seal therebetween.

3. Furthermore, this specific claimed structure and functionality is not found in the prior art of record, and based on the prior art searched, it would not have been obvious to modify existing tamper-evident assemblies to have the particular features and functionality as claimed.

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4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NED A. WALKER whose telephone number is (571)270-3545. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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